

MEMORANDUM

DATE:

SUBJECT: Medley Farm Site
Gariney, South Carolina

FROM: Regional Administrator
Region IV

TO: Courtney M. Price (LE-133)
Assistant Administrator for
Enforcement and Compliance Monitoring

The Region is requesting that EPA Headquarters review the enclosed Civil Litigation Report concerning the above-referenced facility and refer this matter to the Department of Justice for civil action pursuant to Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, 42 U.S.C. §9601, et seq., to obtain reimbursement for expenditures incurred by EPA in response to a release of hazardous substances in Gaffney, South Carolina.

The Regional attorney assigned to this case is Kirk Macfarlane, FTS/257-2641; the Regional technical person assigned is Giezelle Bennett, FTS/ 257-2930; the Headquarters attorney is Doug Greenhaus, FTS/ 382-3072; and the Headquarters technical person is Lawrence Weiner, FTS/382-4832.

JACK E. RAVAN
Regional Administrator

I hereby concur in this referral.

JAMES H. SARGENT
Regional Counsel

Enclosure

cc: David Buentes DOJ (w/encl.)
Gene Lucero (WH-527) (w/encl.)

KIRK MACFARLANE/srw/6-14-85

Macfarlane/Johnson/Sargent Bennett/Cole/Green Smith
PC/17

Devine Ravan

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CIVIL LITIGATION REPORT

Medley Farm Site
County Road 72
(Burnt Gin Road)
Gaffney, South Carolina

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Office of Regional Counsel
FTS/257-2641

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Site Screening and
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FTS/257-2930

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I. Synopsis of Case

The Modley Site (also known as the Burnt Gin Site) is located on County Road 72 (Burnt Gin Road) off State Route 18 in White Plains Township, Cherokee County, South Carolina, approximately six miles south of Gainesville, South Carolina. The disposal site is an approximately 7-acre plot of land within a 65.4-acre parcel owned by Ralph C. Modley.

The site (before EPA cleanup) contained a drum storage area and six small lagoons. From approximately 1966 to 1976, the site was used as a waste disposal site. Barrels of chemical waste were reportedly trucked to the site by various chemical companies. The barrels were then rolled out of the truck without using a ramp, causing most of the barrels to rupture.

Investigations by the EPA in June, 1983, and the South Carolina Department of Health and Environmental Control (SCDHEC) in June 1983 and July 1984 documented the presence of various organic contaminants in water samples collected in ponds on-site, in soil samples collected on-site, and in the groundwater.

On May 19, 1983, SCDHEC inspected the Medley Site and found an estimated 2000 drums in deteriorating conditions and standing pools of waste. SCDHEC informed EPA who inspected the site the week of May 30, 1983.

Among the contaminants found were significant levels of methylene chloride, vinyl chloride, tetrachloroethylene, phenol, toluene, trichloroethylene and 1, 2 dichloroethane. An on-site composite soil sample contained polychlorinated biphenols (PCBs) at high levels. In addition, sampling of adjacent homeowner's wells revealed contamination by methylene chloride.

Further investigation of the site revealed that Mr. Clyde Medley, Ralph Medley's first cousin, managed the operation of the site. On December 7, 1984, a notice letter was sent to Clyde Medley requesting information about the site. He replied to the information request on March 5, 1985. Clyde Medley replied that his only involvement with the site was to help his cousin Ralph Medley with the billing of the companies. Companies that utilized the site that he recalled were: Charles S. Tanner, Tanner Chemicals, Greenville, SC; ABCO Chemicals, Roebuck, SC; Unisphere Chemicals, Spartanburg, SC; Polymer Industries, Greenville, SC; and Ethox Chemicals, Greenville, SC. Investigation has revealed the existence of other potentially responsible parties who either generated the waste found on site or were involved in the operation of the site.

4. NAME:

Medley's Concrete Works

ADDRESS:

Route 7, Box 197
Gaffney, South Carolina 29340

COUNSEL: (Unknown)

5. NAME:

Wade S. Weatherford, Jr.

ADDRESS:

308 Union Street
Gaffney, South Carolina 29340

COUNSEL:

Robert L. Stoddard
Moore, Stoddard, Stoddard & Wood
P.O. Box 5178
Spartanburg, S.C. 20304

Ralph Medley was the owner of the Medley site during the times material to this action.

Clyde Medley (Ralph's cousin) managed the disposal of drums at the site. Mrs. Grace Medley was also involved in the management of the disposal operations at the site.

Barry Medley (Clyde's son) was also involved in the management of the disposal operations at the site.

Medley's Concrete Works, owned by Clyde until 1984 (then sold to Barry), was used as the office and billing agent for the disposal operations.

Wade S. Weatherford, Jr. is believed to have been involved in the operation and/or disposal at the site. Further information would be needed before Weatherford could be named in a cost recovery action.

B. Generators

1. Milliken Chemical Company
(formerly Sylvan Chemical Company - at the time of disposal)

ADDRESS:

Post Office Box 817
Inman, South Carolina 29349

REGISTERED AGENT:

C.T. Corporation Systems
409 E. North Street
Greenville, South Carolina 29601

COUNSEL:

James W. Potter
Thompson, Mann and Hutson

The Daniel Building
Greenville, South Carolina 29602

2. Moreland - McKesson Chemical Co.
(formerly Moreland Chemical Co.)

ADDRESS:

Camp Croft Industrial Park
P.O. Box 2169
Spartanburg, S.C. 29304

REGISTERED AGENT:

C.T. Corporation Systems
409 E. North Street
Greenville, S.C. 29601

COUNSEL: (Unknown)

3. Unisphere Chemical Corporation

ADDRESS:

Brooks Boulevard
P. O. Box 18390
Spartanburg, S.C. 29318

REGISTERED AGENT:

Carlos Gutierrez
Route 4, Box 253-B
Spartanburg, S.C. 29304

COUNSEL: (Unknown)

4. ABCO Industries Inc.

ADDRESS:

Railroad Road
Roebuck, S.C. 29376

REGISTERED AGENT:

A. B. Bullington, Jr.
Railroad Road
Roebuck, S.C. 29376

COUNSEL:

Ralph M. Mellow
Ogletree, Deakins, Nash, Smoak and Stewart
1000 East North
P. O. Box 2757
Greenville, S.C. 29602

5. National Starch and Chemical Corp.
(formerly Charles S. Tanner Co.)

ADDRESS:

Finderne Avenue
P. O. Box 6500
Bridgewater, N.J. 08807

REGISTERED AGENT:

Princeton Hall Corporation Systems
1231 Washington Street
Columbia, S.C. 29201

COUNSEL:

Alexander M. Samson, Jr.
Associate Counsel
(at corporate address)

6. Tanner Chemical Company, Inc.

ADDRESS:

P.O. Box 1967
Furman Hall Court
Greenville, S.C. 29602

REGISTERED AGENT:

James N. Strausbaugh
Furman Hall Ct.
Greenville, S.C. 29602

COUNSEL: (Unknown)

III. Factual Basis for the Case

A. Facility Description

The Medley Site (also known as the Burnt Gin Site) is located on County Road 72 (Burnt Gin Road) off State Route 18 in White Plains Township, Cherokee County, South Carolina, approximately six miles south of Gaffney, South Carolina. The disposal site is an approximately 7-acre plot of land within a 65.4-acre parcel owned by Ralph C. Medley.

The site (before EPA cleanup) contained a drum storage area and six small lagoons. The site presently has a graded dirt surface with observable leachate moving from the site to a southeastern gully. The land use in the vicinity of the site is primarily agricultural (farms and cattle) and residential (population approximately 1000).

From approximately 1966 to 1976, the site was used as a waste disposal site. Barrels of chemical waste were reportedly trucked to the site by various chemical companies. The barrels were then rolled out of the truck without using a ramp, causing most of the barrels to rupture.

B. Nature of the Hazard

Investigations by the EPA in June, 1983, and the South Carolina Department of Health and Environmental Control (SCDH&EC) in June 1983 and July 1984 have documented the presence of various organic contaminants in water samples collected in ponds on-site,

in soil samples collected on-site, and in the groundwater. Composite water samples from the ponds present on-site revealed significant levels of numerous organic compounds. The concentrations found were; methylene chloride at 1500 micrograms per liter (ug/l); vinyl chloride at 290 ug/l; tetrachloroethylene at 490 ug/l; phenol at 78 ug/l; toluene at 330 ug/l; trichloroethylene at 32 ug/l; and 1,2 dichloroethane at 19 ug/l. An on-site composite soil sample contained polychlorinated biphenyls (PCBs) at 800 ug/l.

SCDHEC sampled an adjacent homeowner's private drinking water well. In a June, 1983 sampling investigation, the well contained 14 ug/l of methylene chloride. However, in a July, 1984 sampling, the concentration of methylene chloride had increased to 678 ug/l and 1,2 dichloroethane was also detected at 2.51 ug/l. The EPA Water Quality Criteria for the protection of humans from the toxic effects of methylene chloride has been set at 1.9 ug/l as a level in which, if present in drinking water, could cause one additional case of cancer in a population of 100,000 (45 FR 79318, November 28, 1980). The level found in the drinking water well far exceeds this criteria. Methylene chloride is considered an experimental carcinogen. The 1,2 dichloroethane is an experimental carcinogen, mutagen, and teratogen.

The Medley Site is in an area of low rolling topography, with elevations ranging from 700 feet above mean sea level (AMSL)

to Thicketty Creek. Organic odors detected in the November 18, 1983 visit by EPA indicates that contaminants are still present in the soil. Off-site groundwater well contamination is an indication that wastes have migrated from the site. Drainage from the site has the potential to contaminate Jones Creek. The contaminated soils pose threats of further contamination of the groundwater. The area immediately surrounding the site is residential and agricultural.

C. Prior Federal and State Action

On May 19, 1983, SCDHEC inspected the Medley Site and found an estimated 2000 drums in deteriorating conditions and standing pools of waste. SCDHEC informed EPA who inspected the site the week of May 30, 1983.

Because of the condition of the site, a notice letter was issued on June 15, 1983 to Mr. Ralph Medley, the owner of the site. Ralph Medley replied that he did not have any money, did not know any names of the companies that used the site, and did not keep any records of transactions. An immediate removal was initiated on June 20, 1983 and completed July 21, 1983. During the cleanup, company labels and markings were discovered on drums at the site. On October 25, 1983, notice letters were sent to the following companies:

1. BSC Industries, Woodside Queens, NY
2. Sylvan Chemical Corporation, Inman, SC

3. Astro Industries, Morganton, NC
4. Charles S. Tanner Co., Greenville, SC
5. Tanner Chemical Co., Greenville, SC
6. Hercules, Inc., Wilmington, DE
7. Permuthane, Peabody, MA
8. Rohm & Haas Co., Philadelphia, PA
9. Sartomer Co., West Chester, PA
10. Monsanto Co., St. Louis, MO
11. Dow Chemical Co., Midland, MI
12. ABCO Industries, Roebuck, SC
13. Neville Chemical Co., Pittsburg, PA
14. Dow Corning Corp., Midland, MI
15. Hoechst Fibers Industries, Spartanburg, SC
16. Exxon Corp., New York, NY
17. Ashland Chemical Co., Ashland, KY
18. Union Carbide Corp., Danbury, CT

Only three of the eighteen responded that they had either used the Hedley Site or did business with Hedley Concrete works -

(1) Sylvan Chemical Corp (now Hilliken Chemical) said that they transacted business with Hedley's Concrete works during the years of 1974 to 1976 and disposed of various nonhazardous and hazardous textile organic chemicals as well as nonhazardous solid wastes; (2) Charles S. Tanner Co. (now National Starch and Chemical Corp.) responded that between February 1974 and June 1975 they shipped a number of drums of nonhazardous-aqueous

emulsion waste to the Medley Farm Site; and (3) ABCO Industries indicated that they trucked a few drums of nonhazardous substances to the site in the early 1970's.

SCDHEC sampled an adjacent homeowner's drinking water well on 6/27/83, 9/12/83, and 7/17/84. The June sampling revealed 14 ug/l methylene chloride, the September sampling did not show any contamination, and the July 1984 sampling showed 678 ug/l methylene chloride and 2.51 ug/l. Based on these sampling data, on 11/15/84 SCDHEC recommended that the Medley Site be ranked for inclusion on the next NPL update. Further investigation of the site revealed that Mr. Clyde Medley, Ralph Medley's first cousin, managed the operation of the site. On December 7, 1984, a notice letter was sent to Clyde Medley requesting information about the site. He replied to the information request on March 5, 1985. Clyde Medley replied that his only involvement with the site was to help his cousin Ralph Medley with the billing of the companies. Companies that utilized the site that he recalled were: Charles S. Tanner; Tanner Chemicals, Greenville, SC; ABCO Chemicals, Roebuck, SC; Unisphere Chemicals, Spartanburg, SC; Polymer Industries, Greenville, SC; and Ethox Chemicals, Greenville, SC.

In January 1985, EPA initiated a responsible party search on the Medley site. The report is scheduled to be completed in June, 1985.

D. Immediate Removal Action

As a result the presence of vinyl chloride, benzene, aniline, methylene chloride, phenol, and toluene; the condition of the site; the

associated threat to human health and the environment; and the failure of the site owner to take effective action, an immediate removal action was initiated on June 20, 1983.

The cleanup activities consisted of removing 5,383 55-gallon drums and 15-gallon containers from the site. Six small lagoons on-site contained an estimated 70,000 gallons of water and an unknown volume of sludge and solid waste material. The contents of the lagoons were treated and removed and the lagoons back filled.

Approximately 2,132 cubic yards of contaminated soil and solid waste along with 24,200 gallons of liquid waste were shipped to an approved hazardous waste facility. Waste material removed from the site included industrial solvents, insoluble organics such as polyesters and resins, alcohols, acids, bases, and small amounts of PCBs. The site was then graded with a dirt surface. The immediate removal was completed on July 21, 1983.

The on-Scene-Coordinator's (OSC) report is attached. It contains all the documentation used to support the decision to perform the immediate removal.

IV. Legal Basis for the Case

A. Response Authority-§104

Sections 104(a)(1) and 104(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9601, et seq. (CERCLA), give the President the authority to respond to the release or threatened release

of hazardous substances, pollutants and contaminants. These sections provide in pertinent part:

104 (a)(1), 42 U.S.C. §9604 - Whenever (A) any hazardous substance is released or there is a substantial threat of such a release into the environment, or (B) there is a release or substantial threat of release into the environment of any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare, the President is authorized to act, consistent with the national contingency plan, to remove or arrange for the removal of, and provide for remedial action relating to such hazardous substance, pollutant, or contaminant at any time (including its removal from any contaminated natural resource), or take any other response measure consistent with the national contingency plan which the president deems necessary to protect the public health or welfare or the environment, unless the President determines that such removal or remedial action will be done properly by the owner or operator of the vessel or facility from which the release or threat of release emanates, or by any other responsible party.

104(b) - Whenever the President is authorized to act pursuant to subsection (a) of this section, or whenever the President has reason to believe that a release has occurred or is about to occur, or that illness, disease, or complaints thereof may be attributable to exposure to a hazardous substance, pollutant, or contaminant and that a release may have occurred or be occurring, he may undertake such investigations, monitoring, surveys, testing and other information gathering as he may deem necessary or appropriate to identify the existence and extent of the release or threat thereof, the source and nature of the hazardous substances, pollutants or contaminants involved, and the extent of danger to the public health or welfare or to the environment. In addition, the President may undertake such planning, legal, fiscal, economic, engineering, architectural and other studies or investigations as he may deem necessary or appropriate to plan and direct response actions, to recover the costs thereof, and to enforce the provisions of this Act.

B. Liability - Section 107(a) of CERCLA establishes liability for funds expended pursuant to Section 104(a)(1) of

the Act. This section provides in pertinent part:

107(a) - Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in subsection (b) of this section --

(1) the owner and operator of . . . a facility,

(2) any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substance were disposed of,

(3) any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity, at any facility owned or operated by another party or entity and containing such hazardous substances, and

(4) any person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities or sites selected by such person, from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous substance, shall be liable for --

(a) all costs of removal or remedial action incurred by the United States Government or a state not inconsistent with the national contingency plan;

C. Statutory Definitions

Section 101 of CERCLA defines the following applicable terms:

(8) "environment;" (9) "facility;" (11) "Fund" or "Trust Fund;" (14) "hazardous substance;" (15) "navigable water;" (18) "onshore facility;" (20)(A) "owner or operator;" (21) "person;" (22) "release;" (23) "remove" or "removal;" (25)

"respond" or "response;" (31) "national contingency plan;" and (32) "liable" or "liability."

D. Jurisdiction and Venue - Section 113(b) of CERCLA, 42

U.S.C. §9613, provides that the United States district court shall have exclusive original jurisdiction over all controversies arising under the Act without regard to the citizenship of the parties or the amount in controversy. Venue shall be in any district in which the release or damage occurred, or in which the defendant resides, may be found, or has his principal office. The release occurred in Gaffney, South Carolina, which is located in the District of South Carolina, Spartanburg Division. Venue is therefore appropriate in the district in which the release occurred, the District of South Carolina, Spartanburg Division.

V. Required Elements of Proof/Evidence

A. Elements of Proof - To establish a prima facie cost recovery case pursuant to Section 107 of CERCLA, the government must prove the following facts:

1. defendant(s) is an owner or operator;

or

2. defendant is a person who arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment at a facility.

3. of a facility
4. from which there was a release;
5. of a hazardous substance;
6. which caused the incurrence or response costs;
7. not inconsistent with the National Contingency Plan ("NCP").

B. Evidence Supporting Each Element

1. Owner/Operator

a. Ralph Medley

Ralph Medley was the owner of the site during the time when disposal of hazardous substances occurred at the site. A notice letter was sent to Ralph Medley on June 15, 1983, prior to EPA's removal activities (Exhibit 1). A copy of the deed evidencing ownership is attached (Exhibit 2). As such, Ralph Medley is a responsible party pursuant to Section 107(a)(2).

b. Clyde Medley

Clyde Medley was the operator of the site during the relevant times. According to Clyde's own statement (Exhibit 3), Clyde arranged for a disposal site for the waste and served (at the very least) as the "billing agent" for the disposal activities at the site. Clyde Medley's business, Medley's Concrete Works, was used as the office for the operation. In addition, other information indicates that Clyde Medley often directed the transporters of the hazardous substances as to where to dispose of the substances (See Exhibit 2).

Clyde was seen at the site several times. As such, Clyde Medley is a responsible party pursuant to Section 107(a)(2), since he directed and arranged for transport and disposal at the site.

Mr. Medley has refused to answer any further questions regarding the site, claiming that EPA has no authority to request such information from him.

c. Mrs. Grace Medley (Clyde's wife)

Mrs. Medley was also an operator of the site during the relevant times. Information indicates that she often directed transporters of waste as to where to dump the waste at the Medley site (See Exhibit 2). In addition, Clyde Medley's statement confirms the role his wife played in the operation of the Medley site (See Exhibit 3). As such, Mrs Medley is a responsible party pursuant to Section 107 (a)(2).

d. Barry Medley

(Clyde's son)

Barry Medley was also an operator of the site during the relevant times. Information indicates that Barry was seen at the dumpsite several times and that Barry directed the disposal activities at those times (See Exhibit 2). He is the current owner of Medley's Concrete Works, having bought the company from his father for \$5.00 in 1984. (See Exhibit 2). As such, Barry Medley is a responsible party pursuant to Section 107(a)(2).

e. Medley's Concrete Works

Medley's Concrete Works ("MCW") was an operator of the site during the relevant times. The statement of Clyde Medley indicates that the offices of Medley's Concrete Works were used for the billing for the disposal activities (See Exhibit 3). In addition, other information indicates that the MCW office's were the contact point for the disposal operations at the site (See Exhibit 2). Furthermore, a response from Milliken Chemical Company to a Section 104(e) information request states that it transacted the disposal business directly with Medley's Concrete Works. (See Exhibit 4). That response also included invoices for disposal at the Medley site which were printed on the letterhead of MCW. As such, Medley's Concrete Works is a responsible party pursuant to Section 107(a)(2).

f. Wade S. Weatherford, Jr.

Mr. Weatherford is believed to have been operator of the site during the relevant times. His wife owns the property on which the Love Springs site is located. That property was leased to Clyde Medley for operation of a disposal site for latex waste under a state permit. The state has closed the Love Springs site due to improper disposal practices. It appears that the sites (Love Springs and Medley) may have been linked and that waste was sent to one or the other at the direction of Clyde Medley. More information is needed to determine if Weatherford had a role in the operation of the

Medley site. A section 104(e) request has been sent to him.

Mr. Weatherford has refused to answer that request, claiming EPA is without authority to request such information from him. A second letter has been sent to him explaining the authority for the request. If no more information is forthcoming from Mr. Weatherford, it may be worthwhile to consider deposing him during the discovery phase of the litigation. In addition, depositions of other witnesses may provide evidence of Weatherford's link to the Medley site.

2. Generators

a. Milliken Chemical Company (formerly Sylvan Chemical Corporation)

Sylvan Chemical Corporation arranged for the transportation and disposal of hazardous substances at the Medley site. In 1981, Sylvan Chemical filed a notification of Hazardous Waste site form with EPA (Exhibit 5). This document indicates that Sylvan disposed of waste between the years 1966 and 1972 (possibly as late as 1976) at the Medley site. Sylvan's (Milliken's) response to EPA's 104(e) information request included invoices of transactions with Medley's Concrete. (See Exhibit 4).

In addition, that response stated that some of the waste was "hazardous textile organic chemicals." The response indicates that Milliken shipped the equivalent of 1,612 55-gallon drums to Medley's Concrete Works. The foregoing information demonstrates that Milliken Chemical Company is a responsible party pursuant to Section 107(a)(2).

b. Moreland - McKesson Chemical Company
(formerly Moreland Chemical Company)

Moreland Chemical Company arranged for the disposal of hazardous substances at the Medley site. Information from a former driver for Moreland indicates that in the early 1970's Moreland arranged for the transportation and disposal of drums at the Medley site. (Exhibit 2). A Section 104(e) request has recently been sent to Moreland. A response to that inquiry may provide further evidence of Moreland's connection with the Medley site.

c. Unisphere Chemical Corporation

Unisphere arranged for the disposal of hazardous substances at the Medley site. Information from a former employee indicates that Unisphere disposed of at least 400 drums of acetone and dibutyl maleate at the Medley site. (Exhibit 2). Deliveries to the site ranged from three times a week to twice a month. Apparently the drums were not labelled Unisphere, but rather those of other companies. In addition, the statement of Clyde Medley indicates that Unisphere disposed of drums at the Medley site. (Exhibit 3).

In addition, that response stated that some of the waste was "hazardous textile organic chemicals." The response indicates that Milliken shipped the equivalent of 1,612 55-gallon drums to Medley's Concrete Works. The foregoing information demonstrates that Milliken Chemical Company is a responsible party pursuant to Section 107(a)(2).

b. Moreland - McKesson Chemical Company
(formerly Moreland Chemical Company)

Moreland Chemical Company arranged for the disposal of hazardous substances at the Medley site. Information from a former driver for Moreland indicates that in the early 1970's Moreland arranged for the transportation and disposal of drums at the Medley site. (Exhibit 2). A Section 104(e) request has recently been sent to Moreland. A response to that inquiry may provide further evidence of Moreland's connection with the Medley site.

c. Unisphere Chemical Corporation

Unisphere arranged for the disposal of hazardous substances at the Medley site. Information from a former employee indicates that Unisphere disposed of at least 400 drums of acetone and dibutyl maleate at the Medley site. (Exhibit 2). Deliveries to the site ranged from three times a week to twice a month. Apparently the drums were not labelled Unisphere, but rather those of other companies. In addition, the statement of Clyde Medley indicates that Unisphere disposed of drums at the Medley site. (Exhibit 3).

Despite the denial by Unisphere, in response to EPA's 104(e) request, that it disposed of hazardous substances at the site, Unisphere should be considered a responsible party pursuant to Section 107(a)(2) based upon the foregoing evidence. An additional Section 104(e) request has recently been sent to Unisphere. A response to that inquiry may provide further evidence of Unisphere's connection with the Medley site.

d. ABCO Industries, Inc.

ABCO arranged for the disposal of drums at the Medley site. Information from the former Unisphere driver indicates that ABCO was involved in disposal at the site. (See Exhibit 2). In addition, the response of Clyde Medley to EPA's 104(e) request states that ABCO was involved in disposing of drums at the site. (Exhibit 3). Furthermore, there are several pictures of ABCO drums that were taken during the EPA cleanup activities. (Exhibit 6). ABCO's attorney, in his reply to EPA's 104(e) request, states that an ABCO driver may have delivered several drums to the Medley's site in the early 1970's, but that those drums would not have contained hazardous substances. (See Exhibit 7). Based on the information received from other sources it appears that ABCO is a responsible party pursuant to Section 107(a)(2). ABCO's claim as to the number and contents of drums sent to the site does not square with other accounts.

Therefore, ABCO should be considered as a responsible party under CERCLA. An additional Section 104(e) request has recently been sent to ABCO. Further evidence of ABCO's link to the site may therefore be forthcoming.

e. National Starch and Chemical Company
(formerly Charles S. Tanner Co.)

Charles S. Tanner Company (CST) arranged for the disposal of hazardous substances at the Medley site. Information indicates that CST disposed of many drums at the site. Clyde Medley's response to EPA's 104(e) request states that CST arranged for and directed the disposal activities at the Medley site (See Exhibit 3). Clyde Medley states that CST accounted for 85% of the drums disposed of at the site. The fact that CST disposed of drums at the site is confirmed by CST's own response to EPA's 104(e) request (See Exhibit 8), and pictures of some of its drums at the site (Exhibit 9). Given the above information, CST should be considered a responsible party pursuant to Section 107(a)(2), despite its claim that it did not dispose of hazardous substances at the site. (See Exhibit 8). In light of the number of drums found at the site, the levels of contamination, and the statement of Clyde Medley, CST should be considered a responsible party under CERCLA.

An additional Section 104(e) request has recently been sent to NS and C. Further evidence of NS + C's link to the site may therefore be forthcoming.

f. Tanner Chemical Company (Tannco)

Tanner Chemical arranged for the disposal of hazardous substances at the Medley site. The response of Clyde Medley to EPA's 104(e) request indicated that Tanner Chemical was responsible for the placement of approximately five percent of the drums on the site. (See Exhibit 3). In addition, pictures taken during the EPA cleanup show that Tanner Chemical drums were disposed of at the site. (Exhibit 10). Although Tanner has claimed that it sent no drums to the site, (See Exhibit 11), it appears that Tanner Chemical is a responsible party pursuant to Section 107(a)(2). While EPA does not at this time have conclusive evidence that Tanner drums contained hazardous substances, Tanner is a likely responsible party under CERCLA.

A Section 104(e) request has recently been sent to Tanner. Tanner's response may provide additional evidence of its link to the Medley site.

g. Additional Generators

Several Section 104(e) requests have been sent to other potential generators. Their responses may point to additional responsible parties.

3. "Facility"

The Medley site is clearly a "facility" within the meaning of Section 101(9) of CERCLA. The site is an area where a hazardous substance has been deposited, stored, disposed of, or

placed, or otherwise come to be located. (See OSC Report - Exhibit 12).

4. "Release"

There was a release or threat of release from the Medley facility as these terms are defined in Section 101(22) of CERCLA. The release which occurred at the Medley facility was of hazardous substances. Analysis of soils, surface water, groundwater, and the drums themselves has documented the contamination of soils, surface water and groundwater by various toxic substances which meet the definition of "hazardous substances" in Section 101(14) of CERCLA. (See Exhibits 13 - 16). In addition, the release or threat of release of hazardous substances from leaking drums at the site has been documented. (See OSC - Report - Exhibit 12).

5. Of Hazardous Substances (See V B4 above)

6. Caused Incurrence of Response Costs

The release or threat of release of hazardous substances from the Medley facility caused the incurrence of response costs pursuant to Section 104 of CERCLA.

7. Consistent with NCP

The costs incurred as a result of the removal actions at the Medley site were not inconsistent with the NCP.

VI. Government Witnesses/Document Support

A. Richard Stonebraker On-Scene-Coordinator

U.S. EPA, Region IV
345 Courtland Street, NE
Atlanta, Georgia 30365

Mr. Stonebraker will testify as to the release and/or threat of release, the cleanup efforts at the site, the sampling activities and the consistency of those removal costs with the NCP (See OSC Report - Exhibit 12).

B. James Ullery, S.C. On-Scene Coordinator

South Carolina Dept. of Health & Environmental
Control
2600 Bull Street
Columbia, S.C. 29201
Tel: (803) 750-5681

Mr. Ullery will testify to the release and/or threat of release and the cleanup efforts at the site.

C. William McBride

Mr. McBride can testify to the administrative and personnel costs incurred by Region IV as a result of the removal action, investigation and enforcement actions. (See Exhibit 19).

D. O. H. Materials Company

Post Office Box 551
Findlay, OH 45840
Tel: 1/800-537-9540

O. H. Materials personnel can testify as to the cleanup and sampling work done on site.

E. Janet Farella

U.S. EPA
401 M Street, S.W.
Washington, D.C. 20460
Tel: FTS/382-2016

Ms. Farella can testify as to administrative and personnel costs incurred by Headquarters (See Exhibit 20).

VII. Other Potential Witnesses - Sources

There have been numerous reports of threats made against potential witnesses and of the reluctance of many such persons to speak out openly. (See Exhibit 2). It is therefore likely that witnesses will have to be subpoenaed for depositions, and efforts made to protect them from retaliation. It is in light of the foregoing that the following list of potential witnesses is attached. Most of their present addresses are unknown.

A. Joe Turley

Mr. Turley was an employee of Moreland Chemical Company who is believed to have directed the disposal of some drums at the Medley site. (See Exhibit 2). He is currently employed at BASF Wyandott in Spartanburg, South Carolina.

B. Barbara Tisdale

Ms. Tisdale was apparently a supervisor at Unisphere who arranged for the disposal of drums at the Medley site. She could be a source of testimony as to the contents of such drums.

C. Charles Roberts
Route 5, Box 140
Gaffney, S.C. 29340

Mr. Roberts is a former employee of Unisphere who has told EPA that he transported hazardous

substances (acetone and dibutyl maleate) for Unisphere to the Medley site. (See Exhibit 2). He is familiar with the procedure used for arranging for disposal at the site. He also can testify as to other companies seen at the disposal site, i.e. ABCO.

D. Jimmy Smith

Mr. Smith apparently did some of the digging at the Medley site and thus may be a source of information as to the source and contents of drums disposed of at the site as well as to the involvement of the individual defendants in the operation of the site.

E. Tom Morris

Mr. Morris of Morris Construction Company may also have done some of the digging at the Medley site.

F. Dinesh Patel

Mr. Patel is and was the plant manager of the Milliken plant. He could be a source as to the connection between Milliken and the Medley site.

G. Sam Davis
610 Beech Street
Gaffney, S.C. 29304

Mr. Davis is a former Medley and Moreland driver. He could provide useful testimony as to the source and content of drums disposed of at the site, as well as the involvement of the individual defendants in the operation of the site. (And as to the existence and whereabouts of any records kept).

H. John Hill

Mr. Hill is also a former Medley driver. His testimony could be useful for the reasons noted above. (See Exhibit 17 as to whereabouts).

I. Ryder Rental

It appears that Ryder trucks were used for the transportation of hazardous substances to the Medley site. Ryder could provide useful information as to the scale of activities, the nature of the operation, and the involvement of various parties in that operation.

J. Bill Blanton

Mr. Blanton owns a towing service in Gaffney. Apparently he was called many times to tow trucks out of the mud at the Medley site. He could provide useful information as to the source and nature of drums disposed of at the site and as to the involvement of various parties in the operation of the site.

VIII. Relief Requested

EPA is requesting that a civil action be initiated to recover all costs incurred pursuant to Section 104 of CERCLA, totalling approximately \$570,000. Cost documentation is attached (Exhibits 19 & 20).

IX. Anticipated Issues

There do not appear to be any unique issues that are likely to be raised by the responsible parties in this action.

It is likely that several of the generator defendants may challenge the strength of the evidence linking them to hazardous substances found on site. However, more evidence is likely to develop once full-scale discovery activities commence.

It is also likely that the need for a cleanup in the first instance will be challenged (See Exhibit 17). However, the existing documentation should refute any such claim.

X. Resolution Strategy

A. Recommended Remedy

First, demand letters must be issued. Given the defendants' attitudes in the past, it is unlikely they will agree to reimburse the Fund.

The government should prepare to file suit. The financial assets of the parties indicates that their assets are substantial, at least as to the corporate parties. Information indicates that the individual parties may also have substantial assets. (See Exhibit 2).

B. Resource Impact on Agency

The resource impact on the Agency should be minimal compared to other civil litigation under CERCLA. Although there are potentially 12 defendants, nearly all of the evidence needed is at hand. Therefore, relatively minimal resources will be required.

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.
)	
RALPH MEDLEY;)	
CLYDE MEDLEY;)	
GRACE MEDLEY;)	
BARRY MEDLEY;)	
MEDLEY'S CONCRETE WORKS;)	
MILLIKEN CHEMICAL COMPANY;)	
MORELAND - MCKESSON CHEMICAL)	
COMPANY;)	
UNISPHERE CHEMICAL CORPORATION;)	
ABCO INDUSTRIES INCORPORATED;)	
NATIONAL STARCH AND CHEMICAL)	
CORPORATION;)	
TANNER CHEMICAL COMPANY;)	
)	
)	
Defendant.)	
)	

COMPLAINT

The United States of America, by and through the undersigned attorneys, by authority of the Attorney General of the United States and acting at the request of the United States Environmental Protection Agency ("EPA"), alleges:

1. This is a civil action brought pursuant to Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. §9607. This action seeks to recover costs incurred by plaintiff under Section 104 of CERCLA, 42 U.S.C. §9604, in the implementation

KIRK MACFARLANE/srw/6-14-85

of certain response measures at a seven-acre site located on County Road 72 (Burnt Gin Road), Gaffney, South Carolina (hereafter "the Medley site" or "the site").

2. This Court has jurisdiction over this action pursuant to Section 113(b) of CERCLA, 42 U.S.C. §9613(b), and 28 U.S.C. §1345.

3. Venue is proper in this district pursuant to Section 113(b) of CERCLA, 42 U.S.C. §9613(b), and 28 U.S.C. §1391(b), because the release or threatened release of hazardous substances that gave rise to this claim occurred in this district.

4. Defendant Ralph Medley is and was at all times relevant hereto the owner of the Medley site.

5. Defendants Clyde Medley, Grace Medley, Barry Medley, and Medley's Concrete Works each actively participated in, managed, supervised, or was otherwise involved in the operations at the Medley site.

6. Defendant Milliken Chemical Company (hereafter "Milliken") is a division of Milliken and Company, a Delaware corporation, which does business in this judicial district.

7. Defendant Moreland - McKesson Chemical Company (hereafter "Moreland") is owned by McKesson Corporation, a Maryland corporation, which does business in this judicial district.

8. Defendants Unisphere Chemical Corporation (hereafter "Unisphere") and ABCO Industries, Inc. (hereafter "ABCO") are South Carolina corporations which do business in this judicial

district.

9. Defendant National Starch and Chemical Corporation (hereafter "National Starch") is a Delaware corporation which does business in this judicial district.

10. Defendant Tanner Chemical Company (hereafter "Tanner Chemical") is a South Carolina corporation which does business in this judicial district.

11. From the mid 1960's until approximately 1977, defendants Ralph, Clyde, Grace, and Barry Medley, and Medley's Concrete Works operated a disposal facility on the Medley site. As a result of those operations, as many as 5383 fifty-five (55) gallon drums, many of which were obtained from defendants National Starch and Chemical Corporation, Milliken Chemical Company, Moreland - McKesson Chemical Company, Unisphere Chemical Corporation, ABCO Industries Inc., and Tanner Chemical Company, were transported to the site. The drums contained chemical materials, including substances considered hazardous under CERCLA. The operators of the site rolled the drums out of the trucks without a ramp, causing many drums to rupture. As a result of the drum disposal, the site's surface became contaminated with hazardous substances, and those substances leached down through the site's surface to contaminate the groundwater thereunder. Sampling and analysis of the surface water, site soil, neighboring well water and groundwater revealed the presence of various toxic organic compounds, including

but not limited to, methylene chloride, vinyl chloride, tetrachlorethylene, phenol, toluene, trichlorethylene, 1, 2 dichloroethane and polychlorinated biphenyls (PCBs) --- each a hazardous substance under CERCLA. The Medley site is situated in a residential and agriculture area in near proximity to both residential wells and Jones Creek.

12. In May and June 1983, investigations by the EPA and the South Carolina Department of Health and Environmental Control (SCDHEC) documented the presence of significant levels of contaminants at the site.

13. On June 20, 1983, EPA, through its contractors, initiated response measures at the site to reduce or eliminate the hazards presented thereby. A substantial quantity of contaminated soil and solid waste was excavated and disposed of and approximately 24,000 gallons of liquid waste were shipped to an approved hazardous waste facility. Cleanup of the site was completed on July 21, 1983. Costs incurred by EPA in studying and redressing the hazards presented by the site were in excess of \$561,000.

14. Defendants are liable to the United States under Section 107(a) of CERCLA, 42 U.S.C. §9607(a), for this amount as well as administrative, investigative, and legal expenses incurred by the federal government relative to the Medley site.

15. The Medley site is a facility within the meaning of Section 101(9) of CERCLA, 42 U.S.C. §9601(9).

16. Hazardous substances within the meaning of Section 101(14) of CERCLA, 42 U.S.C. §9601(14), were, at times relevant hereto, disposed of at the Medley facility.

17. At times relevant hereto, there were releases and threatened releases of hazardous substances into the environment at the Medley facility within the meaning of Section 101(22) of CERCLA, 42 U.S.C. §9601(22).

18. The response actions taken at the Medley facility, and the costs incurred incident thereto, were not inconsistent with the National Contingency Plan.

19. The government has satisfied any condition precedent to undertaking of response actions, the incurrence of response costs, and to the recovery of those costs under Section 107 of CERCLA, 42 U.S.C. §9607.

20. Each defendant is liable to plaintiff for response costs incurred by the United States relative to the site pursuant to Section 107(a) CERCLA, 42 U.S.C. §9607(a).

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays that this Court

1. Enter judgment against the defendants jointly and severally in favor of the United States for all response costs incurred at and in conjunction with the Medley site amounting to at least \$570,000 plus interest;

2. Award plaintiff attorney's costs and fees; and

3. Grant such other and further relief as it deems appropriate.

Dated _____, 1985.

Respectfully submitted,

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